

Code of Federal Regulations

Title 36: Parks, Forests, and Public Property

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

§ 7.20 Fire Island National Seashore.

(a) *Operation of motor vehicles*—(1) *Definitions*. The following definitions shall apply to all provisions of this paragraph (a):

(i) “Act” means the Act of September 11, 1964 (Pub. L. 88–587, 78 Stat. 928, 16 U.S.C. 459e et seq.), or as the same may be amended or supplemented, which authorizes the establishment of the Seashore.

(ii) “Seashore lands” means any lands or interests in lands owned or hereafter acquired by the United States within the authorized boundaries of the Seashore. It shall also mean any lands or interests in lands owned by the United States which are on the island, outside the authorized boundaries of the Seashore, and managed for recreational purposes by the National Park Service pursuant to an agreement with another Federal agency.

(iii) “Island” means the entirety of Fire Island, New York; without regard for property ownership, jurisdiction, or the boundaries of Fire Island National Seashore.

(iv) “Mainland” means the land of Long Island, N.Y.

(v) “Motor vehicle” means a device which is self-propelled by internal combustion or electrical energy and in, upon, or by which any person or material is or may be transported on land.

(vi) “Dune crossing” means an access route over a primary dune which has been designated and appropriately posted.

(vii) “Public utility vehicle” means any motor vehicle operated and owned or leased by a public utility or public service company franchised or licensed to supply, on the island, electricity, water, or telephone service, while that vehicle is in use for supplying such service.

(viii) “Year-round residents” means those persons who are legally domiciled on the island and who, in addition, physically reside in their fixed and permanent homes on the island continuously, except for brief and occasional absences, for 12 months of the year.

(ix) “Part-time residents” means those persons who physically and continuously reside in their homes on the Island for less than 12 months of the year.

(x) “Essential service vehicle” means any motor vehicle other than a public utility vehicle whose use on the Island is essential to the continued use of residences on the Island. This may include vehicles used for the following purposes, while in use for such purposes:

(A) Transporting heating fuel and bottled gas.

(B) Sanitation or refuse removal.

(xi) “Official vehicle” means any motor vehicle operated and owned or leased by a Federal, State, or local governmental agency, except for law enforcement vehicles and fire fighting apparatus, while that vehicle is being used to transact the official business of that agency.

(xii) “Construction and business vehicle” means any motor vehicle other than a public utility vehicle or essential service vehicle involved in construction, maintenance, or repair of structures on the Island or the transportation of materials or supplies to retail business establishments on the Island.

(2) *Routes for motor vehicle travel.* No motor vehicle may be operated on Seashore lands except on routes designated for that purpose and subject to the limitations of this paragraph (a). The following are the routes for off-road motor vehicle travel on Seashore lands, which shall be designated on a map available at the office of the Superintendent or by the posting of signs where appropriate:

(i) Along the Atlantic Ocean on the south shore of Fire Island, within the Seashore boundaries between the water's edge and 20 feet seaward of the beach grass (*Ammophila breviligata*) line. If the water is higher than this 20-foot line, no vehicle travel is permitted.

(ii) A 1-mile route in the interior of the Island, crossing the "Lighthouse Tract" from the easterly end of the paved road in Robert Moses State Park to the eastern boundary of the Tract, which is the western boundary of the community of Lighthouse Shores-Kismet Park.

(iii) An interior route which extends intermittently the length of the island, commonly referred to as the "Burma Road," for limited travel by public utility and law enforcement vehicles and fire fighting apparatus.

(iv) Posted dune crossings from the beach to the "Burma Road" or to pathways within the island communities.

(3) *Alternative means of transportation.* In providing for access to the island, the Superintendent shall require maximum possible reliance on those means of transportation which are other than private motor vehicles and which have the minimum feasible impact on Seashore lands. As used in this paragraph (a), the term "alternative transportation" shall mean a waterborne conveyance that is licensed for hire and that provides a reasonable means of transportation between the mainland and the island. Such alternative transportation shall be deemed to exist for each particular factual situation in which:

(i) The schedule of the transportation service in question permits departure from an island terminal before 9 a.m. and departure from a mainland terminal after 5 p.m. on the same day; and

(ii) When the interval between the earliest and latest service provided by the transportation service in question on any day exceeds 8 hours, such service provides at least one round trip between the mainland and the island during that interval; and

(iii) The island transportation terminal in question is no more than one mile from the point of origin or destination on the island or from a point on the island to which access by motor vehicle is permitted; and

(iv) The mode of transportation in question is adequate to carry the person or object to be transported.

(4) *Permit required.* No motor vehicle, other than a piece of firefighting apparatus or a motor vehicle operated and owned or leased by a duly constituted law enforcement agency having jurisdiction within the Seashore, shall be operated on Seashore lands without a valid permit issued by the Superintendent.

(5) *Permit eligibility.* Any person, firm, partnership, corporation, organization, or agency falling within the categories listed below may apply to the Superintendent for a permit, using a form to be supplied for that purpose. The following will be eligible to submit permit applications:

(i) Those persons who are year-round residents.

(ii) Those persons who held part-time permits prior to January 1, 1978.

(iii) Those persons, firms, partnerships, corporations, organizations, or agencies which provide services essential to public facilities and the occupancy of residences on the Island.

(iv) Those persons who desire access by motor vehicle to Seashore lands in order to engage in fishing or hunting thereon, provided such access is compatible with conservation and preservation of Seashore resources.

(v) Those owners of estates in real property located on the Island who have a demonstrated need for temporary access to that property on days when there is no alternative transportation.

(vi) Holders of reserved rights of use and occupancy.

(6) *Standards for issuance of permits.* Permits will not be issued for the convenience of travel on Seashore lands. The Superintendent shall approve an application for a motor vehicle permit with appropriate limitations and restrictions or deny the application, in accordance with the provisions of this paragraph (a). Permits will be issued only for those motor vehicles whose travel on Seashore lands is deemed by the Superintendent to be essential to the management or enjoyment of Seashore resources, or to the occupancy of residences or the ownership of real property on the island. In making this determination, the Superintendent shall consider the purposes of the Act in providing for the conservation and preservation of the natural resources of the Seashore and for the enjoyment of these resources by the public; the scope and purpose of such travel; the availability of alternative transportation on the day or days when the applicant for a permit requests to travel on Seashore lands; the present or past issuance of other permits to the applicant; any limitations on numbers of permits established pursuant to paragraph (a)(8); and, in the case of public utility, service, and official vehicles, the feasibility of basing such vehicles and related equipment on the island rather than the mainland.

(7) *Vehicle restrictions.* Any motor vehicle whose owner or operator has been found to qualify for a permit, according to the standards set forth in paragraphs (a) (5) and (6), must, prior to the issuance of such permit:

(i) Have a valid permit or other authorization for operation on the island issued by the local government agency or agencies within whose jurisdiction the travel is to be performed, if such permission or authorization is required by such agency or agencies.

(ii) Be capable of four-wheel drive operation.

(iii) Have a rated gross vehicle weight not in excess of 10,000 pounds, unless the use of a larger vehicle will result in a reduction of overall motor vehicle travel.

(iv) Meet the requirements of §4.10(c)(3) of this chapter and conform to all applicable State laws regarding licensing, registration, inspection, insurance, and required equipment.

(8) *Limitations on number of permits.* (i) The Superintendent may limit the total number of permits for motor vehicle travel on Seashore lands, and/or limit the number of permits issued for each category of eligible applicants listed in paragraph (a)(5) of this section as the Superintendent deems necessary for resource protection, public safety, or visitor enjoyment. In establishing or revising such limits, the Superintendent shall consider such factors as the type of use or purpose for which travel is authorized, the availability of other means of transportation, limits established by local jurisdictions, historic patterns of use, conflicts with other users, existing multiple permits held by individuals or a household, aesthetic and scenic values, visitor uses, safety, soil, weather, erosion, terrain,

wildlife, vegetation, noise, and management capabilities. A revision of these limitations shall be published as a rule in the Federal Register except in emergency situations when closures may be imposed in accordance with the provisions of §1.5 and §1.7 of this chapter.

(ii) Limitations on permits for motor vehicle travel on Seashore lands, according to eligible applicant category, are as follows:

(A) *Year-round residents.* No more than 145 permits at any time are issued to year-round residents. A year-round resident who is denied a permit because the limit has been reached is placed on a waiting list. When the number of outstanding permits drops below 145, permits are issued in order of the date of receipt of the application. When multiple applications are received on the same day, priority is given to persons both living and working full time on the Island. One year-round resident permit is allowed per household. Permit applications are mailed by the Superintendent by December 1 of each year to those year-round residents eligible to renew their permit. The deadline for receipt of completed applications is January 31 of the permit year. Applications received after January 31 are not considered as renewals of existing permits. Should the 145 limit be reached, late applications are placed at the end of the waiting list.

(B) *Part-time residents.* Permits are issued only to part-time residents who held a residential permit as of January 1, 1978. No more than 100 part-time resident permits are issued. A part-time resident who becomes a year-round resident is eligible to apply for a year-round resident permit in accordance with paragraph (a)(8)(ii)(A) of this section. A year-round resident permit holder as of January 1, 1978, who no longer qualifies as a year-round resident, may be eligible to obtain a part-time resident permit as long as the 100 limit is not exceeded and the part-time resident definition is satisfied.

(C) *Holders of reserved rights of use and occupancy.* A holder of a reserved right of use and occupancy, or a lessee thereof, occupying a property acquired by the National Park Service in the eight-mile area described in the Act, is issued a permit consistent with the terms under which the right of use and occupancy is retained.

(D) *Public utility and essential service vehicles.* No more than 30 permits at any time are issued to public utility and essential service vehicles. After consultation with the property owners' association of the appropriate unincorporated community or the village clerk for the Villages of Ocean Beach and Saltaire, the Superintendent may apportion permits to allow minimal service needs to each community.

(E) *Construction and business vehicles.* No more than 80 permits at any time are issued to construction and business vehicles. An operator of a construction or business vehicle who is denied a permit because the limit has been reached is placed on a waiting list. When the number of outstanding permits drops below 80, permits are issued in order of the date of receipt of the application. An operator of a construction or business vehicle may apply for either a 30-day-per-job permit or a one-year letter permit. Only a year-round construction firm or a year-round business is eligible for a one-year letter permit and only as long as the firm or business remains in year-round operation.

Notwithstanding possession of either a 30-day permit or a one-year letter permit, when water transportation is available, a firm or business shall accomplish all transportation of materials, supplies, and crews by use of the nearest available ferry, freight, or other overwater transportation method. When water transportation is available, vehicles

permitted under a 30-day permit may remain at the job site but must be removed upon the completion of the job.

(F) *Municipal employees.* A year-round resident who is a full-time employee of one of the two villages or of one of the 15 unincorporated communities identified in the Act is eligible for a permit if such employment necessitates year-round Island residence. Five (5) municipal employee permits are available for each village or community except on the basis of documented community need.

(G) *Recreational vehicles.* Recreational vehicles may travel between Smith Point and Long Cove along the route described in paragraph (a)(2)(i) of this section. A total of 5000 one-way trips per year are available for the recreational vehicle category. Permits for recreational vehicles may be obtained from the Smith Point Visitor Center. Annual recreational vehicle trip counts commence in September of each year and conclude the following June or when the 5000 trip limit is reached, whichever occurs first.

(9) *Permit limitations.* (i) No permit issued under these regulations shall be valid for more than one year. The superintendent may issue permits for lesser periods, as appropriate for the travel required or the time of year at which a permit is issued.

(ii) Permits for public utility, service, and official vehicles shall specify the number of vehicles and identify each vehicle whose use is authorized thereby. Permits for other motor vehicles will apply only to the single, specific vehicle for which issued.

(iii) Permits are not transferable to another motor vehicle or to a new owner or lessee of the vehicle for which issued.

(iv) Permits may specify a single or multiple uses or purposes for which travel on Seashore lands is permitted. The limitations and restrictions on authorized travel set forth in paragraph (a)(10) of this section shall apply, however, depending upon the specific use or purpose for which a permitted motor vehicle is being utilized at the time of travel.

(v) Permits may contain such other limitations or conditions as the Superintendent deems necessary for resource protection, public safety, or visitor enjoyment. Limitations may include, but will not be limited to, restrictions on locations where vehicle travel is authorized and times, dates, or frequency of travel, in accordance with the provisions of this paragraph (a).

(10) *Authorized travel.* (i) Except as specifically provided elsewhere in this paragraph (a)(10), travel across Seashore lands by motor vehicles with valid permits will be authorized only on those days in which the island location, which is the point of origin or destination of travel or is another point to which access by motor vehicle is permitted, is not served by alternative transportation.

When alternative transportation services satisfy the definition of alternative transportation in paragraph (a)(3), the schedule of transportation services available for the island community or communities named in the permit application shall determine the days when travel is not authorized for the motor vehicle to which that permit applies.

(ii) Except as provided in paragraph (a)(10)(iii) of this section, on any day on which travel by motor vehicle is authorized due to a lack of alternative transportation, travel shall be limited to not more than one round trip per vehicle per day between the mainland and the Island, and may be performed at any time except the following periods:

(A) From 9 a.m. to 6 p.m. on all Saturdays, Sundays, and national holidays from May 1 through June 13 and from September 15 through October 31.

(B) From 9 a.m. to 6 p.m. on all weekdays, and from 6 p.m. Friday to 9 a.m. the following Monday on all weekends, from June 14 through September 14.

(iii) *Exceptions.* (A) From the Monday after Labor Day through the Friday before Memorial Day, a year-round resident may make no more than two round trips per day for residential purposes.

(B) The Seashore is closed to all recreational vehicles from January 1 through March 31 and from June 14 through September 14. During the periods when the Seashore is open for recreational vehicle traffic, an operator of a recreational vehicle may make no more than two round trips per day. On weekend days in September and October, a recreational vehicle may enter the Island until 9:00 a.m. A recreational vehicle that has entered the Island may then remain or may depart but may not re-enter the Island until after 6:00 p.m.

(iv) The Superintendent may, for situations where the restrictions in paragraph (a)(10)(ii) would create a severe hardship, authorize additional trips or travel at other hours.

(v) In the case of public utility, service, and official vehicles for which permits have been issued, the Superintendent may authorize travel on Seashore lands at any time that he determines travel by such vehicles is essential, notwithstanding the above limitations and restrictions on authorized travel.

(vi) Recurring travel conducted pursuant to paragraph (a)(10) (iv) or (v) of this section is authorized only pursuant to the terms and conditions of the original permit issued by the Superintendent; single occasion travel is authorized only pursuant to the terms and conditions of a permit issued by the Superintendent on a case by case basis.

(vii) In an emergency involving the protection of life or a threatened substantial loss of property, travel by a motor vehicle which is under permit is authorized at any time.

(viii) The Superintendent may suspend any travel by motor vehicle otherwise permitted under this paragraph (a) when in his judgment such travel is inconsistent with the purpose of the Act or when such factors as weather, tides, or other physical conditions render travel hazardous or would endanger Seashore resources. Such suspension of travel shall be announced by the posting of appropriate signs or verbal order of the Superintendent.

(ix) In accordance with the procedures set forth in §1.5 of this chapter, the Superintendent may establish a limit on the number of motor vehicles permitted on any portion of, or the entirety of, the Seashore lands at any one time when such limits are required in the interests of public safety, protection of the resources of the area, or coordination with other visitor uses.

(x) The provisions of this paragraph (a)(10) shall not apply to firefighting apparatus or to motor vehicles operated and owned or leased by a duly constituted law enforcement agency having jurisdiction within the Seashore.

(11) *Rules of travel.* (i) When two motor vehicles approach from opposite directions in the same track on Seashore lands, both operators shall reduce speed and the operator with the water to his left shall yield the right of way by turning out of the track to the right.

(ii) No motor vehicle shall be operated on any portion of a dune on Seashore lands except at dune crossings.

(iii) No person shall operate a motor vehicle on Seashore lands at a speed in excess of 20 miles per hour.

(iv) The speed of any motor vehicle being operated on Seashore lands shall be reduced to five miles per hour upon approaching or passing within 100 feet of any person not in a motor vehicle, or when passing through or over any dune crossings.

(12) *Violations.* (i) Failure to comply with the conditions of any permit issued pursuant to this paragraph will constitute a violation of these regulations.

(ii) In addition to any penalty required by §1.3(a) of this chapter for a violation of regulations in this paragraph, the Superintendent may suspend or revoke the permit of a motor vehicle involved in such a violation.

(b) *Operation of Seaplane and Amphibious Aircraft.* (1) Aircraft may be operated on the waters of the Great South Bay and the Atlantic Ocean within the boundaries of Fire Island National Seashore, except as restricted in §2.17 of this chapter and by the provisions of paragraph (b)(2) of this section.

(2) Except as provided in paragraph (b)(3) of this section, the waters of the Great South Bay and the Atlantic Ocean within the boundaries of Fire Island National Seashore are closed to take-offs, landings, beachings, approaches or other aircraft operations at the following locations:

(i) Within 1000 feet of any shoreline, including islands.

(ii) Within 1000 feet of lands within the boundaries of the incorporated villages of Ocean Beach and Saltaire and the village of Seaview.

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) Kismet—located at approximate longitude 73° 12 1/2' and approximate latitude 40° 38 1/2'.

(ii) Lonelyville—located at approximate longitude 73° 11' and approximate latitude 40° 38 1/2'.

(iii) Atlantique—located at approximate longitude 73° 10 1/2' and approximate latitude 40° 38 1/2'.

(iv) Fire Island Pines—located at approximate longitude 73° 04 1/2' and approximate latitude 40° 40'.

(v) Water Island—located at approximate longitude 73° 02' and approximate latitude 40° 40 1/2'.

(vi) Davis Park—located at approximate longitude 73° 00 1/2' and approximate latitude 40° 41'.

(4) Aircraft operation in the vicinity of marinas, boats, boat docks, floats, piers, ramps, bird nesting areas, or bathing beaches must be performed with due caution and regard for persons and property and in accordance with any posted signs or uniform waterway markers.

(5) Aircraft are prohibited from landing or taking off from any land surfaces, any estuary, lagoon, marsh, pond, tidal flat, paved surface, or any waters temporarily covering a beach; except with prior authorization of the Superintendent. Permission shall be based on the need for emergency service, resource protection, resource management or law enforcement.

(6) Aircraft operations shall comply with all Federal, State and county ordinances and rules for operations as may be indicated in available navigation charts or other aids to aviation which are available for the Fire Island area.

(c) *Information collection.* The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0026. This information is being

collected in order for the superintendent to issue permits and grant administrative benefits. The obligation to respond is required in order to obtain a benefit.

(d) *Personal watercraft*. (1) Personal watercraft (PWC) may operate in the following locations and under the following conditions:

(i) Great South Bay from the western boundary of the national seashore adjacent to Robert Moses State Park, east to the western boundary of the Sunken Forest, excluding any area within 1,000 feet of the shoreline, except as provided in (ii), including the area surrounding East Fire Island and West Fire Island.

(ii) Navigation channels marked by buoys or identified on the NOAA navigational chart (12352) to include access channels to and from Fair Harbor, Dunewood, Lonelyville, Atlantique, Cherry Grove, Fire Island Pines, Davis Park, Moriches Inlet, Kismet, Saltaire, Ocean Beach, Ocean Bay Park, Point O'Woods, Oakleyville, and Water Island.

(iii) The Long Island Intracoastal Waterway within the park boundaries.

(iv) At "flat wake" speeds (maximum 6 mph) within designated marked channels to access town/community docks and harbors/marinas.

(2) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

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